



San Diego City Attorney MICHAEL J. AGUIRRE

NEWS RELEASE

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CITY ATTORNEY REASSERTS ROLE AS CHIEF LEGAL ADVISOR TO EMPLOYEES' RETIREMENT SYSTEM AMIDST ALLEGATIONS OF IRS VIOLATIONS

City Attorney Michael Aguirre today reasserted the San Diego City Attorney's authority, under Section 40 of the San Diego City Charter, to assume the role of chief legal advisor to the San Diego City Employees' Retirement System (SDCERS). His directive was issued on December 9, 2004.

"The pension plan manager and attorneys have adopted a policy of stonewalling and delaying," said City Attorney Aguirre. "Each day that passes will result in appropriate sanctions." The City Attorney further stated, "The question is not if, but when the authority of the City Attorney will be fully recognized and implemented."

The City Attorney released the statement after receiving numerous calls from the news media regarding his reaction to the October 29, 2004 Presidential Retirement Benefits memorandum from Retirement Administrator Lawrence Grissom to City Manager Lamont Ewell.

The memo informs the City Manager that the Retirement Board's outside tax counsel advised SDCERS to refund all contributions related to respective union presidents who were receiving presidential benefits "because a union does not meet the tests specified by various Federal agencies as a governmental employer." The memo further states, "it is their advice that not to do so, to continue to accept contributions from that source, or to pay benefits based upon contributions thus received, would endanger the tax qualified status of the [retirement] plan."

The City Attorney believes the memorandum demonstrates that present legal counsel to SDCERS has proven to be inadequate. "Outside counsel gave proper legal advice that the presidential retirement benefits plan violated IRS law," said City Attorney Aguirre. "This advice should have been provided by SDCERS legal counsel on day one when the union presidential retirement benefits plan was initially discussed in 2002."

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